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BEFORE THE

# Federal Communications Commission

WASHINGTON, D.C.

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In the Matter of )  
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Review of the Commission's Regulations )  
Governing Television Broadcasting )  
 )  
Review of the Commission's Regulations )  
Governing Attribution of Broadcast )  
and Cable, MDS Interests )

MM Docket No. 91-221

MM Docket No. 94-150

To: The Commission

**JOINT COMMENTS OF GLENCAIRN, LTD. AND WPTT, INC.  
ON SECOND FURTHER NOTICE  
OF PROPOSED RULE MAKING AND FURTHER  
NOTICE OF PROPOSED RULE MAKING**

Glencairn, Ltd. ("Glencairn"), and WPTT, Inc. (hereinafter "Glencairn/WPTT") by their attorneys, hereby submit their Comments in response to the Commission's Second Further Notice of Proposed Rule Making ("Second FNPRM") in MM Docket No. 91-221 and Further Notice of Proposed Rule Making ("FNPRM") in MM Docket No. 94-150. These Comments are directed toward the issues posed by the Commission concerning LMAs in these rule making proceedings.

**I. Preliminary Statement**

1. Glencairn, a minority-owned broadcaster, is the parent of UHF television station licensees in Baltimore, Maryland, Durham, North Carolina, Milwaukee, Wisconsin and Birmingham, Alabama. WPTT, Inc., also a minority-owned broadcaster, is the licensee of WPTT(TV), a UHF station in Pittsburgh, Pennsylvania. Each of these stations operates pursuant to a local marketing agreement ("LMA") with another UHF television station in the market.

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Glencairn/WPTT's experience with LMAs illustrates the positive contributions LMAs can make. As demonstrated herein, LMAs have advanced minority ownership, have strengthened previously weak stations, and have resulted in programing diversity in the marketplace, including substantial gains in the amount of educational children's programming aired. These positive results, and the lack of any negative results, demonstrate the wisdom in Congress' mandate that the Commission should grandfather LMAs. Indeed, Glencairn/WPTT submits that, for the reasons set forth herein, the Commission should not only grandfather all existing LMAs, but should also permit new LMAs.

## **II. Glencairn/WPTT's LMAs Have Resulted in Tangible Public Interest Benefits**

2. In its attribution rule making proceeding (MM Docket No. 94-150), the Commission has requested information on the characteristics of LMAs and the role they play. In that rule making proceeding as well as in MM Docket No. 91-221, the Commission has tentatively proposed to attribute television LMAs based on the same principles that apply to radio time brokerage agreements. Under this proposal, time brokerage of another television station in the same market for more than fifteen percent of the brokered television station's weekly broadcast hours would be held to be attributable, and therefore would count toward the brokering television licensee's national and local ownership limits. Unless Glencairn/WPTT's existing LMAs were grandfathered or unless the Commission's duopoly rule was modified so as to permit UHF/UHF LMAs, the FCC's proposal would have devastating results for Glencairn/WPTT. Glencairn/WPTT's LMAs are with subsidiaries of Sinclair Broadcast Group, Inc., one of the largest multiple owners of UHF television stations, which has UHF stations in the markets in which Glencairn/WPTT's stations are located.

3. The Commission's proposal fails to take into account the benefits LMAs serve and ignores important differences between radio and television programming and operation. In Glencairn/WPTT's case, the benefits are striking.

**A. WABM(TV), Birmingham, Alabama**

4. WABM operates on Channel 68 in Birmingham (DMA Market Rank 51) as a UPN affiliate. In May 1995, WABM entered into an LMA with WTTO, Channel 21, (formerly a Fox affiliate and now a Warner Brothers affiliate) Birmingham.

5. Prior to the LMA, WABM was in bankruptcy! Because of its poor financial state, WABM was unable to buy product. All of the shows that aired were barter shows and, in the course of a day, it was not unusual to see a show air three times in one day. The station had no programming library and thus no means of effectively competing in the market.

6. As a direct result of its LMA with WTTO, WABM is now, after a little over a year, a competitive force in the market. The station now airs first run and top syndicated programs throughout the broadcast day. As of the third quarter of 1996, WABM was airing 6 ½ hours of core children's programming. WABM has gone from a 0/0 ratings/share in May 1994 to a 1/3 ratings/share in November 1996. There is no duplication of programming between WTTO and WABM.

7. WABM has also been able to improve its technical facilities as a result of its LMA. It has moved into the building in which WTTO is housed and has benefited from the better equipment located there as well as the presence of additional knowledgeable personnel. Revenues have been used to put a competitively balanced lineup on the air that suits the market's viewing habits. Moreover, WABM has been able to engage in public service and outreach projects to its service area that have been enhanced by cross-promotion.

**B. WNUV-TV, Baltimore, Maryland**

8. WNUV operates on Channel 54 in Baltimore, Maryland (DMA Market Rank 23) as a UPN affiliate. In May 1994, WNUV entered into an LMA with WBFF, Channel 45, Baltimore, a Fox affiliate. Before entering the LMA, WNUV was only a marginally profitable station. The station was running tired programming and its community involvement essentially consisted of airing public service announcements. Beginning in April, 1997, WNUV plans to air local news at 6:30 p.m. - something the station could not have done without its LMA. This news broadcast represents a significant addition to the market since it will be the latest local evening news broadcast in Baltimore.

9. The LMA has contributed significantly to WNUV's operation and programming. WNUV has moved into a state of the art broadcast facility which it shares with WBFF. The station has gained updated equipment and communications systems - a significant financial investment that otherwise could not have taken place. Since the LMA, the station has been able to purchase quality programming that is popular in the community. As of the third quarter of 1996, WNUV's core children's programming amounted to 6 ½ hours per week. There is no duplication of programming between WNUV and WBFF.

10. WNUV is now heavily involved in community projects in contrast to its prior inability to do any projects. In 1996, the station engaged in five public service projects, and the station has targeted, at a minimum, six public service projects for 1997. These projects include "Proud and Positive," an African American history salute, the "Harbor Music Festival," and "Your Right to Know," a legal aid campaign. WNUV has also won the rights to the pre-season Ravens football team games and has been involved in negotiations with the Orioles baseball team.

**C. WPTT(TV), Pittsburgh, Pennsylvania**

11. WPTT operates on Channel 22 in Pittsburgh, Pennsylvania (DMA Market Rank 19) as a UPN affiliate. The station entered into an LMA with WPGH(TV), Channel 53, Pittsburgh, Pennsylvania, a Fox affiliate, on December 4, 1991.

12. Before it entered an LMA, WPTT was a home-shopping station operating on a marginal basis. As a result of the LMA, WPTT has become a competitive force in the marketplace. Within a few weeks of entering the LMA, WPTT added entertainment programming from 3:00 p.m. to 1:00 a.m. and has expanded its entertainment programming each year to the point where it is now airing 20 hours per day. Through the strength gained from the LMA arrangement, WPTT has also been able to secure better syndicated barter programming. In addition, the station has strengthened its line-up of children's programming. As of the third quarter of 1996, WPTT had 4 ½ hours of core children's programming per week. This year WPTT has also won the rights to 12 ice hockey broadcasts (possible only through the benefits derived from its LMA). WPTT's ratings/share have gone from 0/0 to 1/3 since the LMA began. The amount of duplicated programming with WPGH is only about 3% a week.

13. WPTT is also in the midst of making major improvements to its technical facility, again made possible as the result of the efficiencies of operation attributable to the LMA. The improvements include a dramatic upgrade of the master control facilities at WPTT.

**D. WRDC(TV), Durham, North Carolina**

14. WRDC operates on Channel 29, in Durham, North Carolina (DMA Market Rank 29) as a UPN affiliate. Since March 1995, the station has had an LMA with Station WLFL(TV), Channel 22, Raleigh, North Carolina, a Fox affiliate.

15. WRDC was formerly an NBC affiliate and became a UPN affiliate during the last

six-eight months of the NBC affiliation. It is now a full UPN affiliate. As an NBC affiliate, the station aired very little local public affairs programming. The LMA has enabled WRDC to improve its public affairs programming. The station now has a public affairs director. In conjunction with WLFL, WRDC has conducted highly successful Toys for Tots campaigns in 1995 and 1996. The ability to promote the campaign through two stations and use personnel from both stations resulted in a plentitude of toys for needy youngsters. The LMA has also enabled WRDC to work on improving its educational children's programming. WRDC has added three children's programs and the station produces local segments for one of its children's shows. There is no duplication of programming between WLFL and WRDC.

16. WRDC intends to invest in new equipment and eventually offer a news update. The LMA arrangement will facilitate these improvements.

17. Because WLFL is a Fox affiliate, many of the purchased programs were sitting "on the shelf." WRDC was able to share this programming with WLFL, thereby cutting the initial affiliation change programming costs.

**E. WVTM(TV), Milwaukee, Wisconsin**

18. Station WVTM is a Warner Brothers affiliate operating on Channel 18 in Milwaukee, Wisconsin (DMA Market Rank 31). On March 15, 1993, the station entered into an LMA with WCGV(TV), Milwaukee, Wisconsin which operates on Channel 24 as a UPN affiliate.

19. Prior to entering into the LMA, WVTM was barely breaking even. It is now a profitable station. WVTM was able to draw upon WCGV's extensive movie library which has resulted in more and better programming for its audience. WVTM has also acquired additional programs, including popular fare such as Seinfeld, Martin, Living Single, Frazier & Friends and Family Matters, and it has substantially increased its educational children's programming from a

half hour in 1993 to 4 ½ hours in 1996. Moreover, as a result of its LMA, WVTV has been able to add to its schedule 68 Milwaukee Brewers baseball games and 35 Milwaukee Bucks basketball games. In February 1993, before the LMA, WVTV's ratings/share was 0/0. In February 1996, WVTV's ratings/share was 3/7. There is no duplication of programming between WVTV and WCGV.

20. WVTV is in the midst of facilities improvements as well which are possible because of the LMA. The master control center is being upgraded and should be completed by December 1997.

### **III. The Commission Should Continue to Permit LMAs**

21. Congress' directive to the Commission to grandfather LMAs is fully supported by the benefits that LMAs have achieved. Indeed, the Commission should not simply grandfather, but should continue to encourage LMAs. As described above, in markets such as Birmingham, Durham and Milwaukee, the incremental hours of commercial programming have increased through LMAs. In Birmingham, a bankrupt station was saved, and in other markets, weak stations were strengthened. LMAs have resulted in more operating television stations in many television markets. In the case of Glencairn/WPTT, LMAs have directly contributed to minority ownership.

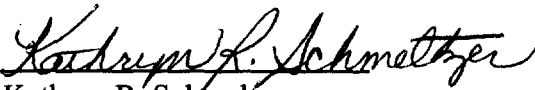
22. The Commission's proposal to attribute LMAs on the basis of its rules for radio totally ignores the very significant and unique benefits that TV LMAs have achieved. The LMAs that Glencairn/WPTT has entered have contributed to the growth of additional television networks - i.e., UPN and Warner Brothers; they have contributed to the competitiveness of the

television marketplace; they have produced greater programming diversity and more programming in the marketplace including more children's programming and more public affairs involvement. These results demonstrate that LMAs serve the public interest and they should be continued.

Respectfully submitted,

GLENCAIRN, LTD.

WPTT, INC.

By:   
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Dated: February 7, 1997

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**CERTIFICATE OF SERVICE**

I, Marionetta Holmes, a secretary in the law firm of Fisher Wayland Cooper Leader & Zaragoza L.L.P., do hereby certify that true copies of the foregoing **“JOINT COMMENTS OF GLENCAIRN, LTD. AND WPPT, INC. ON SECOND FURTHER NOTICE OF PROPOSED RULE MAKING AND FURTHER NOTICE OF PROPOSED RULE MAKING”** were sent this 7th day of February, 1997, via hand delivery, to the following:

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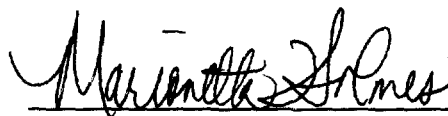
The Honorable James H. Quello  
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